

BY: Michael Trujillo
DEPUTY

Additionally, there are no new facts raised against Defendants in the attached proposed First Amended Complaint. Under the Federal Rules of Civil Procedure, under Rule 15, “the court should freely give leave when justice so requires.” Fed. R. Civ. P. 15(a)(2). “The federal policy of liberality in permitting amendments to pleadings, as embodied in [Federal Rule 15], is self-evident.” *Davenport v. Ralph N. Peters & Co.*, 386 F.2d 199, 204 (4th Cir. 1967). [T]he general rule is that leave to amend a complaint under Federal Rule of Civil Procedure 15(a) should be freely given, see *Foman v. Davis*, 371 U.S. 178, 182 (1962), unless “the amendment would be prejudicial to the opposing party, there has been bad faith on the part of the moving party, or the amendment would have been futile,” *Laber v. Harvey*, 438 F.3d 404, 426 (4th Cir. 2006).

(internal quotation marks omitted).” *Steinburg v. Chesterfield County Planning Com’n*, 527 F.3d 377, 390 (4th Cir. 2008). “It is this Circuit’s policy to liberally allow amendment in keeping with the spirit of [Fed. R. Civ. P.] 15(a).” *Galustian v. Peter*, 591 F.3d 724, 729 (4th Cir. 2010) (citing *Coral v. Gonse*, 330 F.2d 997, 998 (4th Cir. 1964)). “Motions to amend are typically granted in the absence of an improper motive, such as undue delay, bad faith, or repeated failure to cure a deficiency by amendments previously allowed.” *Harless v. CSX Hotels, Inc.*, 389 F.3d 444, 447 (4th Cir. 2004) (citing *Ward Elec. Serv., Inc. v. First Commercial Bank*, 819 F.2d 496, 497 (4th Cir. 1987)). Here, there is no improper motive, such as undue delay or bad faith.

The proposed First Amended Complaint does not prejudice the Defendants as it arises from the same incidents and common facts and law. Hence, Defendants are on notice of these claims. Additionally, Defendants are not prejudiced with this amendment as it still has the opportunity to file its responsive pleading. In light of the settled Supreme Court and Fourth Circuit precedent, liberally applying the dictate of Fed. R. Civ. P. 15(a)(2) that “[t]he court should freely give leave when justice so requires,” Plaintiff respectfully requests that this Honorable Court enter an order granting Plaintiff leave to file an amended complaint, and accepting and filing the proposed First Amended Complaint accompanying this Motion.

Dated: January 11, 2022

Respectfully Submitted,

Brandon Callier

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CLERK, U.S. DISTRICT COURT
WESTERN DISTRICT OF TEXAS

BY: Michael Trujillo
DEPUTY

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CLERK, U.S. DISTRICT COURT  
WESTERN DISTRICT OF TEXAS

BY: Michael Trujillo  
DEPUTY

**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF TEXAS  
EL PASO DIVISION**

**BRANDON CALLIER,**

**Plaintiff,**

**v.**

**DEBT MEDIATORS, LLC** a Florida Limited  
Company, also known as **CM SOLUTIONS LLC**,  
**ANTHONY FRANCISCO** and **ANDREA**  
**FRANSISCO**

## Defendants.

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EP-21-CV-00278-DB

[PROPOSED] ORDER

Upon consideration of Plaintiff's Unopposed Motion for Leave to Amend, it is this,
 ____ day of _____, 2022,

ORDERED that Plaintiff's Unopposed Motion for Leave to Amend be and is hereby **GRANTED**;

SO ORDERED

United States District Judge